

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

SHAKEEM HERATIO CRAWFORD,

Petitioner,

v.

**CIVIL ACTION NO. 3:19-CV-13
CRIMINAL ACTION NO. 3:06-CR-69
(BAILEY)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James P. Mazzone [Civil Action No. 3:19-CV-13, Doc. 3; Criminal Action No. 3:06-CR-69, Doc. 360]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Mazzone for submission of a proposed report and recommendation ("R&R"). Magistrate Judge Mazzone filed his R&R on February 11, 2019, wherein he recommends this Court deny and dismiss the petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Civil Action No. 3:19-CV-13, Doc. 1; Criminal Action No. 3:06-CR-69, Doc. 352] as an unauthorized second or successive motion.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation

to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Mazzone's R&R were due within fourteen (14) days of service, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). The docket reflects that service was accepted on February 19, 2019 [Civil Action No. 3:19-CV-13, Doc. 4; Criminal Action No. 3:06-CR-69, Doc. 362]. Petitioner timely filed his Objections on February 25, 2019 [Criminal Action No. 3:06-CR-69, Doc. 363]. Accordingly, this Court will review the portions of the R&R to which the petitioner objects under a *de novo* standard of review. The remainder of the R&R will be reviewed for clear error.

Petitioner's Objections do not address Magistrate Judge Mazzone's finding that petitioner's § 2255 motion should be dismissed as a second or successive motion without authorization from the Fourth Circuit to file a successive § 2255 motion. Instead, petitioner merely restates and expands on the arguments raised in his current § 2255 motion. Accordingly, as petitioner makes no specific objections to anything contained in the R&R, petitioner's Objections [Criminal Action No. 3:06-CR-69, Doc. 363] are OVERRULED.

Upon review of the R&R for clear error, it is the opinion of this Court that the R&R should be adopted. The Fourth Circuit denied petitioner's motion for authorization to file a second or successive § 2255 on February 5, 2019 [Criminal Action No. 3:06-CR-69, Doc. 355]. Accordingly, pursuant to 28 U.S.C. § 2244 and 28 U.S.C. § 2255, this Court is without authority to hear petitioner's current federal habeas petition.

Thus, it is the opinion of this Court that Magistrate Judge Mazzone's Report and Recommendation [Civil Action No. 3:19-CV-13, Doc. 3; Criminal Action No. 3:06-CR-69, Doc. 360] should be, and is, hereby ORDERED ADOPTED for the reasons more fully stated in the report. As such, the petitioner's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [Civil Action No. 3:19-CV-13, Doc. 1; Criminal Action No. 3:06-CR-69, Doc. 352] is hereby DENIED and DISMISSED as an unauthorized second or successive motion. This Court further ORDERS that the petitioner's civil action be STRICKEN from the active docket of this Court and DIRECTS the Clerk to enter judgment in favor of the respondent.

As a final matter, upon an independent review of the record, this Court hereby DENIES a certificate of appealability, finding that the petitioner has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

It is so ORDERED.

The Clerk is directed to transmit copies of this Order to any counsel of record herein and to mail a copy to the *pro se* petitioner.

DATED: February 26, 2019.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE